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March 12, 2020

Commissioner Comer H. Randall
Public Service Commission of SC
101 Executive Center Dr., Suite 100
Columbia, SC 29210

Re: Rulemaking Proceeding for the Purpose of Promulgating a Regulation to Help
Prevent the Potential for Misleading Advertisements by Prohibiting the Sale of Customer
Data by Regulated Utilities Absent a Customer's Direct Consent (See Commission Order
No. 2019-877)
Docket 2019-387-A

Dear Commissioner Randall:

Dominion Energy South Carolina, Inc. ("DESC") submits the following comments related to the proposed regulation concerning privacy of utility customer data that the Public Service Commission of South Carolina is considering in this docket. DESC generally supports the draft regulation submitted by South Carolina Office of Regulatory Staff ("ORS") but suggests four important amendments to it.

First, DESC recommends that the proposed regulation follow accepted practice in the data privacy field and apply only to information that is identifiable to particular individuals or customers, not aggregated data where specific individuals or customers cannot be identified. In the data privacy field, requirements related to consent and nondisclosure typically apply only to individually identifiable information. It is the disclosure of this information which uniquely implicates the privacy rights of individuals. For this reason, DESC proposes adding a new Paragraph 103._(B) to the regulations as proposed by ORS. The new paragraph would read: "Data which has been aggregated to a degree that individual customer information is not identifiable shall not be considered 'customer data.'"

Second, DESC proposes adding a number of specific items to current Paragraph 103._(E)(3) to reflect the way the customer data is used in utility operations to protect the interest of customers. Specifically, customers benefit where disclosure is allowed:

- ii. To respond to an emergency;
- iii. To respond to service interruption reports or service quality issues;
- iv. To restore power after a storm or other disruption;
- v. To respond to customers' requests for line locations, installation or repair of streetlights, support for construction or tree trimming/removal by customer, or other service orders or requests;
- vi. To inform specific customers as to the utility's tree trimming/vegetation control plans and schedules;
- vii. To respond to claims for property damage by the customer resulting from tree trimming/vegetation control or utility construction;
- viii. To respond to customer complaints;
- ix. To protect the health or welfare of the customer or to prevent damage to the customer's property;
- x. To assist the customer in obtaining assistance from social services, community action, or charitable agencies
- xi. To perform credit checks where customer deposits might otherwise be required or retained; or
- xii. Where circumstances require prompt disclosure of specific information to protect customers' interest or meet customers' reasonable customer service expectations

These are operational situations in which customer privacy concerns would typically be limited but customers' interests or service expectation could be frustrated or injured if communicating necessary information is delayed. While it might be possible to obtain customer consent for disclosure on a transaction-by-transaction basis, unintended consequences such as customer frustration, inefficiency and complaints could result from the delay. Adding these additional disclosure exceptions would further customer satisfaction and efficiency in utility operations.

Third, DESC has a long and valued history of cooperation with law enforcement. To that end, DESC proposes adding a provision to Paragraph 103._(E)(3) to specifically allow disclosure: "Upon valid request from law enforcement."


Fourth, given the fact that multiple privacy statutes exist to cover these matters, DESC would propose that this regulation not be allowed to create new private causes of action or support class action lawsuits. Therefore, DESC proposes adding a new Paragraph 103._(J): "These regulations shall be enforced by regulatory enforcement actions only. No private right of action for damages is created hereby."

DESC has prepared a markup of the proposed regulation to reflect these changes based on ORS's draft which is attached in redline and clean copy to this letter.

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Respectfully submitted,

Womble Bond Dickinson (US) LLP

A handwritten signature in blue ink, appearing to read "Belton T. Zeigler", is written over the firm name.

Belton T. Zeigler

cc: All parties of record